

Congress of the United States
House of Representatives
Washington, DC 20515-3211

February 1, 2019

The Honorable Michael Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Pompeo,

I am writing to demand information regarding the implementation of Presidential Proclamation 9645 and the status of waiver applications under said proclamation. Constituents of my district have brought to my attention that the current waiver process is opaque, indeterminate, and places undue pressure on American families seeking to bring immediate relations to the United States. I am concerned that individuals subject to the Proclamation are faced with systematic challenges that constitute a *de facto* prohibition on travel in all cases, despite the *de jure* presence of a waiver process for individual cases. Furthermore, since the US Embassy in Sana'a closed in 2015 and consular services were transferred to third-countries, applicants for entry to the United States from Yemen are forced to endure incredible hardship in order to rejoin their families, which is further exacerbated by a lack of clarity regarding the status of their applications.

As you know, the Immigration and Nationality Act of 1965 prohibits discrimination in the immigration process based on a person's race, sex, nationality, place of birth, or place of residence. Whereas an across-the-board ban on Yemenis seeking to immigrate to the US is a clear violation of the INA, the inclusion of discretionary waivers for individuals avoids this challenge-- one of the reasons that the current Ban has been upheld. The waiver component of the Travel Ban is essential to its legality, yet reports from the ground indicate that it is hardly an effective means of gaining entry to the United States in practice. Supreme Court Justice Sotomayor has described the process for gaining a waiver as "ad hoc, discretionary, and seemingly arbitrary," and publicly available accounting indicates that it is nearly impossible for individuals to receive a waiver.

The current process by which individuals apply to enter the United States from Yemen places incredible burdens on their American family members. The State Department closed the US Embassy in Sana'a in 2015 due to security concerns related to the conflict there, and transferred all cases to three main embassies: Egypt, Malaysia, and Djibouti. To apply for US visas, applicants must first obtain visas for, and travel to, these countries and attempt to resolve their cases before their visa expires. Djibouti, Egypt, and Malaysia infrequently authorize work permits, leaving applicants dependent on their American family members for living expenses. The situation is exacerbated when relatives need to travel to these countries to support their loved ones through the application process, forcing entire families to choose between providing financial support by continuing to work in the US and providing emotional support by travelling to be with their relatives in person. Since the Travel Ban was implemented, applications are being rejected across the board, negating the significant investments American families have placed in the process.

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Several cases that have been brought to my attention leave me concerned that the current waiver process is inoperable. When applicants are denied visas pursuant to Proclamation 9645, they are told that they are eligible for waivers without being told how they might apply for these waivers, or any way to appeal their case. Since the legality of the Proclamation hinges on these waivers, it is imperative that these waivers be attainable to those in need, rather than window-dressing on an unconstitutional and racist ban.

Mr. Mohamed Alahiry is a United States citizen and father to four American daughters. Mohamed petitioned for his wife Sultanah Al-Samairi, the only non-U.S citizen in the family, in 2015. While waiting to hear from the embassy in Cairo, Sultanah, Mohamed, and their eight year-old daughter Muna were struck by a car in 2018 resulting in severe injuries. Mohamed and Muna returned to the United States to receive proper medical treatment, while Sultanah was forced to remain in Egypt with her eldest daughter to recover and await her visa approval. The Alahiry family was again separated when Mohamed's injuries prevented him from supporting three daughters on his own, and Muna's two sisters were sent to live with relatives in North Carolina. Mohamed is undergoing multiple surgeries to recover from the accident and needs his wife by his side. Sultanah remains waiting for her interview appointment at the embassy in Cairo, currently scheduled for April 16 2019, four years after she originally applied to join her family in the US, and one year after their lives were irrevocably changed by the accident. Furthermore, while I have petitioned for Sultanah's interview to be moved up due to her husband's approaching surgeries, analysis of the overall application system suggests that after her interview, she will simply be denied a visa, and be lucky if she is told that she is eligible for a waiver while her case is placed in administrative processing indefinitely.

Mr. Saeed Obadi is an United States citizen and works as a shopkeeper in Bay Ridge, Brooklyn. He petitioned for a visa for his stepson, Qasem, in 2011. Saeed hoped to reunite his family in Brooklyn, where they plan to build their lives together. Qasem was forced to relocate to Malaysia to continue the visa application process after conflict broke out in Yemen. Qasem interviewed with a US consular officer in September 2018 and was denied due to Proclamation 9645. While Qasem has been told that he is eligible for a waiver, and that his case remains in administrative processing, he has received no guidance on when his family can expect an answer. Qasem's mother's health is deteriorating in his absence, while his Malaysian visa is due to expire on February 4th, forcing him back to Yemen without resolution.

Mr. Ahmed Almulaiki has lived in the United States for the past 25 years. In the US, Ahmed started a small business, which he grew into a chain of 4 supermarkets, from which he was able to support his wife Ghania in Yemen. Ghania completed two interviews in Yemen before the war broke out, and her case was transferred first to Egypt, and then to Djibouti. She interviewed a third time in Djibouti in 2017, and at that point became subject to Presidential Proclamation 9645 and summarily denied a visa to join her husband. Ghania was told that she was eligible for a waiver and that her case is in administrative processing. Ahmed was forced to sell his business to support Ghania while she waits for a response.

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The similarities in these cases paint a picture of a waiver process that is either broken, or willfully negligent of its stated purpose, which is to allow Yemenis with demonstrated need to enter the country provided that they are not national security risks. Individuals who are of immediate relation to American citizens, who have gone through the proper processes for years, are being summarily denied the ability to join their families, in the process exerting unimaginable pressure on their families. Despite in most cases applicants being told they are eligible for a waiver, these stories and others suggest that the waiver process is in fact a fraud, and that "administrative processing" is a *de facto* ban on visas.

Based on public accounting and statements from the State Department, the waiver approval rate for countries subject to the ban stands at 2%. Since the waiver system is integral to the Travel Ban's current legality, I am concerned that it is currently being used as a front for what are summary denials of immigration applications based on countries of origin.

In order to determine the current status of the State Department's waiver program, and the legality of Presidential Proclamation 9645, I request accounting of the numbers associated with the program.

Specifically:

- How many visas are denied annually from countries subject to Proclamation 9645?
- How many are given the option to receive a waiver under the Proclamation each year?
- How many individuals apply for a waiver each year?
- How many applicants for waivers are accepted each year?
- How many applicants for waivers are rejected each year?
- How many individuals have been accepted under the waiver program since its implementation?

I appreciate your prompt attention in resolving these outstanding cases, in which beloved relatives of American citizens languish in an interminable and agonizing process.

Sincerely,



Max Rose
Member of Congress